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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,839	01/24/2001	Philip D. Mooney	Cannon 120-108-62	2205
7590	01/02/2004		EXAMINER	
Troutman Sanders LLP C/O John E. Curtin, Esq. 1660 International Drive Suite 600 McLean, VA 22102			GANTT, ALAN T	
ART UNIT	PAPER NUMBER			
2684				
DATE MAILED: 01/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/767,839	MOONEY ET AL.
Examiner	Art Unit	
Alan T. Gantt	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 24 January 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-36 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5,7-17 and 19-36 is/are rejected.

7) Claim(s) 6 and 18 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7-11, 12, 14, 15, 17, 19, 21, 24-26, 27-30, and 33-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Jakobsson.

Regarding claim 1, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a method of switching between wireless audio sources. Jakobsson meets the following limitations:

receiving a plurality of input audio signals from respective wireless audio sources at a wireless receiver, (paragraphs 18 and 19)  
selecting one of said plurality of input audio signals for output from an audio signal reproducing device coupled to said wireless receiver, said selecting being performed according to at least one stored selection instruction which includes a designated triggering event for triggering said selection. (paragraphs 18 and 19)

Regarding claim 2, Jakobsson meets the limitation, “A method as in claim 1, wherein said selecting is performed according to a plurality of selection instructions”. (paragraphs 18 and 19- discussion of the controller of master cell phone)

Regarding claim 3, Jakobsson meets the limitation, “A method as in claim 2, wherein each of said selection instructions is associated with a respective wireless audio source so that selection of a particular wireless audio source occurs in response to a triggering event included in the associated selection instruction”. (paragraph 18)

Regarding claim 4, Jakobsson meets the limitation, “A method as in claim 1, wherein said designated triggering event includes receipt of a message from a wireless audio source”. (paragraph 18)

Regarding claim 7, Jakobsson meets the limitation, “A method as in claim 1, wherein said designated triggering event includes receipt of an electronic message at a wireless audio source”. (paragraph 18 – incoming phone call)

Regarding claim 8, Jakobsson meets the limitation, “A method as in claim 1, wherein said designated triggering event is a request to communicate via a mobile telephone”. (paragraph 18 – incoming phone call)

Regarding claim 9, Jakobsson meets the limitation, "A method as in claim 1, wherein said wireless audio sources are in RF communication with said wireless receiver. (paragraphs 18 and 19)

Regarding claim 10, Jakobsson meets the limitation, "A method as in claim 9, wherein said wireless receiver and said wireless audio sources are Bluetooth compliant". (paragraph 0002)

Regarding claim 11, Jakobsson meets the limitation, "A method as in claim 1, wherein said wireless receiver and said audio signal reproducing device are included in a headset" (paragraphs 18 and 19).

Regarding claim 12, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a method of switching between wireless audio sources. Jakobsson meets the following limitations:

receiving a plurality of Bluetooth compliant transmissions, each including a respective input audio signal, from respective electronic devices; (paragraphs 18 and 19)

selecting at least one of said received audio signals for output to a headset in accordance with at least one stored selection instruction, said

selection instruction including a designated triggering event for triggering said selection. (paragraphs 18 and 19)

Regarding claim 14, Jakobsson meets the limitation, "A method as in claim 12, wherein said selecting is performed according to a plurality of selection instructions". (paragraphs 18 and 19)

Regarding claim 15, Jakobsson meets the limitation, "A method as in claim 14, wherein each of said selection instructions is associated with a respective electronic device so that selection of a particular electronic device occurs in response to a triggering event included in the associated selection instruction". (paragraphs 18 and 19)

Regarding claim 17, Jakobsson meets the limitation, "A method as in claim 12, wherein said designated triggering event is a mobile telephone transmission". (paragraph 18)

Regarding claim 19, Jakobsson meets the limitation, "A method as in claim 12, wherein at least one of said first and second portable electronic devices is a mobile telephone". (paragraph 18)

Regarding claim 21, Jakobsson meets the limitation, "A method as in claim 12, wherein at least one of said first and second portable electronic devices is a compact disc (CD) player".  
(paragraphs 18 and 19)

Regarding claim 24, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a device for switching among wireless audio sources. Jakobsson meets the following limitations:

    a wireless receiver which receives a plurality of audio signals transmitted from respective wireless audio sources; (paragraphs 18 and 19)

    a storage device that stores at least one selection instruction which includes a designated triggering event for triggering said selection; (paragraphs 18 and 19)

    a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering event; (paragraphs 18 and 19)

    an audio signal-reproducing device coupled to said programmable switch that aurally reproduces said one of said plurality of audio signals selected for output.  
(paragraphs 18 and 19 - master cell phone to wireless headset)

Regarding claim 27, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard

(paragraph 0002). Jakobsson can be said to provide a programmable audio device. Jakobsson meets the following limitations:

a wireless receiver which receives a plurality of audio signals transmitted from respective wireless audio sources; (paragraphs 18 and 19 and Figures 1 & 2)

a storage device that stores at least one selection instruction which includes a designated triggering event for triggering said selection; (paragraphs 18 and 19- inherent with the master cell controller)

a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering; event; (paragraphs 18 and 19 - master cell phone to wireless headset)

a headset for supporting said wireless receiver, said storage device, said programmable switch and at least one headset speaker, said at least one headset speaker being coupled to said programmable switch to aurally reproduce said one of said plurality of audio signals selected for output. (Figures 1& 2 and paragraphs 18 and 19)

Regarding claim 30, Jakobsson meets the limitation, "A programmable audio output device as in claim 27, wherein said designated triggering event is receipt of a mobile telephone transmission. (paragraph 18)

Regarding claim 33, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a system of electronic devices. Jakobsson meets the following limitations:

a plurality of wireless audio source devices; and  
at least one programmable audio output device, comprising:  
a wireless receiver which receives a plurality of audio signals  
transmitted from respective wireless audio source devices;  
(paragraphs 18 and 19)

a storage device that stores at least one selection instruction which  
includes a designated triggering event for triggering said selection;  
(paragraphs 18 and 19 – inherent to master cell phone)

a programmable switch coupled to said storage device and said  
wireless receiver that selects one of said plurality of audio signals  
for output according to said at least one stored selection instruction  
and said designated triggering event; (paragraphs 18 and 19 –  
master cell phone to wireless headset)

an audio signal reproducing device coupled to said programmable switch that aurally reproduces said one of said plurality of audio signals selected for output. (paragraphs 18 and 19 - master cell phone to wireless headset)

Regarding claim 34, Jakobsson meets the limitation, “A system as in claim 33, wherein said programmable audio output device is programmed using one of said plurality of wireless audio source devices” (paragraphs 18 and 19 – the cell phone).

Regarding claims 25, 28 and 35, Jakobsson meets the limitation, “wherein said wireless audio source devices are in RF communication with said wireless receiver”. (paragraphs 18 and 19)

Regarding claims 26, 29 and 36, Jakobsson meets the limitation, “wherein said wireless receiver and said wireless audio source devices are Bluetooth compliant”. (paragraph 0002)

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 13, 16, 20, 22, 23, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jakobsson et al.

Regarding claims 13, 20, 22, and 23, Jakobsson does not discuss utilizing devices other than the CD player as alternate audio sources.

However, the examiner takes Official Notice that it is well known to utilize different audio sources in a switching scheme such as that of applicant's invention and that it would have been obvious for Jakobsson to allow for alternate audio sources since each of these sources would utilize the same line level input.

Regarding claims 5, 16, and 32, Jakobsson does not discuss utilizing a timing event as a trigger.

However, the examiner takes Official Notice that it is well known to utilize a timing event as a trigger and that it would have been obvious to modify Jakobsson to allow a timing event to affect the switching process in order to serve as an alarm situation.

Regarding claim 31, it is obvious that the receiving of an electronic message is analogous to receiving a telephone call and that and, as such, would utilize a similar mechanism.

#### *Allowable Subject Matter*

Claims 6 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 6, methods where the receipt of an incoming information update is used to trigger a switching mechanism between the outputs of audio sources was neither found, suggested, nor made evident by the prior art.

Regarding claim 18, methods where the receipt of an advertising message from a merchant is utilized to trigger a switching mechanism between audio sources was neither found, suggested, nor made evident by the prior art.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reiss discloses an orthodontic appliance audio receiver that includes a local point-to-point or local wireless network device.

Inglehart et al. apparatus and method for automatically switching a headset between a telephone and a second audio source.

Hayes et al. discloses an audio output for portable utilizing a vehicle's AM/FM radio.

Any inquiry concerning this communication from the examiner should be addressed to Alan Gant at telephone number (703) 305-0077. The examiner can normally be reached between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (703) 872-9306.

Any inquiry of a general nature or relating to this application should be directed to the group receptionist at telephone number (703) 305-4700.

*Alan T. Gantt*

Alan T. Gantt

December 26, 2003

*Mark Corso*